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★ FEB 15 2008 ★

LONG ISLAND OFFICE

Honorable SANDRA J. Feverstein
United States District Court Judge
United States District Court
100 Federal Plaza
Courtroom 814
Central Islip, New York 11722

Re: MCCRARY v. County of NASSAU
06-cv-3048/06-cv-4982(SJF)(ARL)

Dear Judge Feverstein:

PLAINTIFF is writing to the Court to Complain of the DEFENDANTS Attempts to undermine the Court's Consideration of crucial issues relating to the DEFENDANTS Failure to disclosure relevant investigative Records of Complaints of Police AND Assistant district Attorney misconduct received From "defendants" AND/or their Attorneys. The investigative Records are electronically stored information which Assistant district Attorney, Barbara Kornblau, stated in her AFFIDAVIT could not be retrieved From the DEFENDANTS Computerized Complaint system. (see Court document Filed as Doc. #44 AND ADA Kornblau's AFFIDAVIT Attached thereto at paras. 5 AND 8).

ON January 30, 2008 the DEFENDANTS wrote to the Court informing the Court that PLAINTIFF had refused to Agree to a briefing schedule in regard to a summary

Judgment Motion. Thereafter, on February 4, 2008 Plaintiff wrote to the Court informing the Court that Plaintiff had not refused to a briefing schedule but simply informed the Defendants that Plaintiff would file a Rule 56(F), Fed. R. Civ. P., Affidavit.

In the Defendants' January 30, 2008 letter to the Court, the Defendants stated that they would await the Court's direction in regard to "Ordering" a briefing schedule. However, today, February 11, 2008, Plaintiff received a summary judgment with instruction to reply within 10 days. No Court ordered briefing schedule was included.

It is Plaintiff's belief that the Defendants are attempting to take advantage of Plaintiff's "Pro se" status by bullying Plaintiff into responding to a motion for summary judgment knowing that the Court has letters from both parties concerning crucial discovery issues.

As it stands to date, The Defendants are well aware of the fact that they have restricted Plaintiff's access to relevant investigative records pertaining to ERWIN JACKSON, PATRICK DEJEAN, MICHAEL PRICE, AND KEVIN SHIPPY to the exclusion of the "many" complaints received by the Defendants from "defendants" and/or their attorneys as attested to by ADA BARBARA KORNBLAU, Bureau Chief of the NASSAU County Public Corruption Bureau.

In light of the Defendants admitted inability to provide Plaintiff with the relevant investigative records essential to Plaintiff substantiating his claims, the

Defendants cannot seriously expect to prevail on a motion for summary judgment. See. *QUINN V. SYRACUSE Model Neighborhood Corp.*, 613 F.3d 438 (2nd Cir. 1980); *Terrell v. Brewer*, 935 F.2d 1015 (9th Cir. 1991). Moreover, the Plaintiff should not be made to suffer as a result of the Defendants' system of record-keeping which conceals rather than discloses relevant records. See. *Kozlowski v. Sears, Roebuck & Co.*, 73 F.R.D. 73, 75 (D. Mass. 1976).

Wherefore, Plaintiff respectfully request that the Court take this and Plaintiff's February 4, 2008 letter under consideration, not as Rule 56(F), Fed. Civ. Proc., Affidavit but as it relates to crucial matters concerning what Plaintiff believes to be the Defendants taking advantage of Plaintiff's pro se status, and attempting to force a summary judgment on Plaintiff while withholding relevant investigative records essential to Plaintiff proving his claims under *Myers v. County of Orange*, 157 F.3d 66 (2nd Cir. 1998).

Dated: Dannemora, New York
February 11, 2008

To: Sondra M. Mendelson
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